

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
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FLOOR DEBATE

March 8, 2005

LB 360, 362

physical force, however slight, to remove an obstruction to the entry of the premises. This has led to a series of inconsistent convictions under the law of burglary. The problem was specifically addressed in a Nebraska Supreme Court concurring opinion in the case of State v. Greer. An example was given in the concurring opinion: Under the present interpretation of "breaking," climbing over the newly erected fence at the Governor's mansion with the intent to commit any felony is not burglary, but opening and walking through the gate with the same intent is burglary. The concurring opinion called on the Legislature to resolve this issue. The purpose of LB 360 is to clarify the burglary statute through the removal of the element of "breaking" from the offense. The intent of the burglary statute is to protect the sanctity and security of homes and businesses, and this intent should not be hindered by formalistic and hypertechnical application of the law. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on LB 360 by Senator Bourne. Open for discussion. Senator Bourne, there are no...he waives the opportunity to close. The question before the body is, shall LB 360 advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. The question before the body is advancement of LB 360. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 360.

SENATOR CUDABACK: LB 360 does advance. (Visitors introduced.) Mr. Clerk, LB 362.

CLERK: LB 362, by Senator Bourne. (Read title.) Bill introduced on January 11, referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Bourne, to open on LB 362.

SENATOR BOURNE: Thank you, Mr. President, members. LB 362